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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,332	09/08/2000	Teddy A. Demirjian	WIZZ.002DV1	2582
20995	7590	10/03/2003	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			SHIH, SALLY	
		ART UNIT	PAPER NUMBER	
		3624		

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/658,332	DEMIRJIAN, TEDDY A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sally Shih	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 31 July 2003.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) 1,3,4 & 6 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. This communication is response to Applicant's amendment filed on July 31, 2003. The objections and rejections are as stated below:

*Status of Claims*

2. Of the original claims 1-5, claims 1, 3, 4 and 5 have been amended. Additionally, the applicant has added new claims 6 and 7. Therefore, claims 1-7 are under prosecution in this application.

*Summary of this Office Action*

3. Applicant's arguments filed on July 31, 2003 have been fully considered, and discussed in the next section below or within the following rejection are not deemed to be persuasive. Therefore, claims 1-7 are rejected as being unpatentable over the art cited below, and Applicant's request for allowance is respectfully denied.

*Response to Amendment/Argument*

4. The Examiner acknowledges Applicant's amended specification, claims 1 and 5 and therefore withdraws the prior office action's objections regarding these issues. Applicant's amended claims 1, 3-5 and newly added claims 6 and 7 are discussed below.

***Claim Rejections - 35 USC §101***

5. Claims 1, 3, 4 and 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1, 3, 4 and 6 only recite an abstract idea. The recited steps of merely obtaining information and updating user's transaction does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how to select an insurance policy over another.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and

meaning into the preamble. In the present case, none of the recited steps are directed to anything in the technological arts as explained above with the exception of the recitation in the preamble that the method is "computer readable medium" for claim 3. Looking at the claim as a whole, nothing the body of the claim recites any structure or functionality to suggest that a computer performs the recited steps. Therefore, the preamble is taken to merely recite a field of use.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces scores for various policies (i.e., repeatable) used in determining and selecting the best insurance policy (i.e., useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1, 3, 4 and 6 are deemed to be directed to non-statutory subject matter.

Example:

A **computerized** method for selecting an insurance policy comprising the steps of:  
(a) retrieving information from a customer **database** and an insurance policy **database**;  
(b) scoring the insurance policy **by a processor** based upon the information from the customer and policy; and  
(c) iterating steps (1) and (2) with different policies until a best insurance policy is selected based on a score determined from step (b).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Moran (United States Patent Number 6,430,542 B1) as discussed from the last paragraph of page 2 of paper 8.

Claim 1: Applicant argued that Moran does not teach altering a user's profile by a second user. To the contrary, Moran specifically teach the method and system in which multiple users can work on the same client profile account without having to duplicate the work (see at least col. 6, lines 41-49).

Claim 2: Applicant incorporated argument made for claim 1. Please see response to argument 1 above incorporated herein.

Claim 3: In addition to incorporate the argument for claim 1, Applicant argued that Moran does not teach the update of a user based on the performance of a second user. To the contrary,

Moran teaches the method and system of having multiple advisors or users working on the same client account in which one's work is dependent on others. Moran's teaching is not limited to one or two users but extends to multiple users (see at least col. 6, lines 41-49).

Claim 4: Applicant essentially made the same argument as claims 1 and 3. Please see response above incorporated herein.

Claim 5: Applicant essentially made the same argument as claims 1, 3 and 4. Please see response above incorporated herein.

Claim 6: Applicant argued that Moran does not teach the restricted access of a user or advisor to a client's profile account. To the contrary, Moran specifically indicated methods and systems for restricting and authorizing the access of a user or advisor to a particular profile account (see at least fig. 3; col. 7, lines 10-34). Additionally, Moran also indicated the features and function to be performed by a user (see at least fig. 3-4, col. 7, lines 35-51).

Claim 7: Applicant argued that claim 7 is a dependent claim of 6. Please see response above incorporated herein.

***Conclusion***

7. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sally Shih whose telephone number is 703-305-8550. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

sys



HANI M. KAZIMI  
PRIMARY EXAMINER